

No. 3726. 185

IN THE
United States
Circuit Court of Appeals,
FOR THE NINTH CIRCUIT.

Peter B. Hovley,
Plaintiff in Error,
vs.
The United States of America,
Defendant in Error.

BRIEF OF DEFENDANT IN ERROR.

ROBERT O'CONNOR,
United States Attorney,
HUGH L. DICKSON,
Assistant United States Attorney.

PARKER & STONE Co., Law Printers, 232 New High St., Los Angeles, Cal.

FILED
SEP 29 1921
F. D. MONCKTON
CLERK

No. 3726.

IN THE

United States

Circuit Court of Appeals,

FOR THE NINTH CIRCUIT.

Peter B. Hovley,

Plaintiff in Error,

vs.

The United States of America,

Defendant in Error.

BRIEF OF DEFENDANT IN ERROR.

Section 2 of the Act of June 25, 1910, 36 Statutes, at Large, provides:

“Any person who shall knowingly transport, or cause to be transported, or aid or assist in obtaining transportation for, or in transporting in interstate or foreign commerce * * * any woman or girl for the purpose of prostitution or debauchery, or for any other immoral purpose, or with the intent and purpose to induce, entice or compel such woman or girl to become a prostitute, or to give herself up to debauchery, or to

engage in any other immoral practice; or who shall knowingly procure or obtain * * * or aid or assist in procuring and obtaining any ticket or any form of transportation * * * to be used by any woman or girl in interstate or foreign commerce * * * in going to any place for the purpose of prostitution or debauchey, or for any other immoral purpose, or with the intent or purpose on the part of such person to induce, entice or compel her to give herself up to the practice of prostitution, or to give herself up to debauchery, or any other immoral practice, whereby any such woman or girl shall be transported in interstate or foreign commerce * * * shall be deemed guilty of felony, etc.”

In the case at bar, the indictment therein, stripped of legal verbiage, charges that plaintiff in error did, on the 13th of February, A. D. 1920, knowingly, wilfully, unlawfully and feloniously transport, and cause to be transported and aid and assist in obtaining transportation for, and in transporting in interstate commerce, a certain woman, to-wit: Barbara Phillip, for the purpose of debauchery, and with the intent and purpose to induce the said Barbara Phillip to give herself up to debauchery, and did procure and aid and assist in procuring a railroad ticket, to be used by the said Barbara Phillip, in interstate commerce, and in the transportation of the said Barbara Phillip, from the city of Chicago, Illinois, to the city of Los Angeles, California, for an immoral purpose, and the fair import of the above charge is, that the defendant in

error, in violation of the statute quoted, did cause to be transported, and procure transportation for the said woman, in interstate commerce, from Chicago, Illinois, to Los Angeles, California, in violation of the statute.

The intent of the defendant in error, to subject the woman transported, to debauchery, need not be consummated by the commission of the specific act of prostitution or debauchery on the part of such woman.

U. S. v. Brand, 229 Fed. 847;

Wilson v. U. S., 232 U. S. 563.

No objection was made to the sufficiency of the indictment in the case at bar, by demurrer, motion to quash or any other manner, until after the verdict, and while it may be true that the defendant in error, by waiting until that time, does not waive the objection that some substantial element of crime is omitted, he does waive all objections which run to the mere form in which the various elements of the crime are stated, or to the fact that the indictment is inartificially drawn.

Dunbar v. U. S., 156 U. S. 190, 191.

After a plea of guilty, the only objection that can be made to the indictment is that it fails to describe the various acts intended to be proved with that reasonable certainty which the law requires to constitute a valid indictment.

U. S. v. Bayaud, 16 Fed. 376.

It is respectfully submitted that the indictment is sufficient to charge the offense laid, and that it informs the plaintiff in error of the crime sufficiently to put him upon notice of the offense with which he is charged, and that the subsequent plea of guilty and acknowledgment of all the material elements of the crime on the part of the plaintiff in error, certainly would leave him in no doubt as to the crime charged in the indictment, and we respectfully submit that the judgment of conviction should be sustained.

ROBERT O'CONNOR,

United States Attorney,

HUGH L. DICKSON,

Assistant United States Attorney.